



Appl. No. 08/973,303
Atty. No. 58780.000003

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
Peter Dörmer) Group Art Unit: 1642
Serial Number: 08/973,303) Examiner: Canella, K. A.
Filed: November 28, 1997)
For: Protein with Differentiation-Inducing
Activity for Friend's Erythroleukemia Cell Lines

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(K)
11-2-00

DECLARATION UNDER 37 C.F.R. § 1.132

Director of the United States Patent Office
Washington, D.C. 20231

Sir:

I, PETER DÖRMER, a citizen of Germany, residing at Eichholzweg 7, Gilching,
Germany D-82205, declare:

- 1) That I am the named inventor of United States Patent Application No. 08/973,303,
filed November 28, 1997.
- 2) That I understand that claims 36-39, 45-46, 66 and 69-72 have been rejected under 35
U.S.C. § 102(b) by the Examiner of record in United States Patent Application No. 08/973,303
as being anticipated by the Dörmer et al. publication (Experimental Hematology, 20:758 (1992)).
- 3) That I have read and understand the Dörmer et al. publication (Experimental
Hematology, 20:758 (1992)) cited by the Examiner of record in support of the rejection of claims
36-39, 45-46, 66 and 69-72 under 35 U.S.C. § 102(b).

4) That I am the first author listed on the Dörmer et al. publication (Experimental Hematology, 20:758 (1992)) cited by the Examiner of record in support of the rejection of claims 36-39, 45-46, 66 and 69-72 under 35 U.S.C. § 102(b).

5) That the statement "[a] differentiation autoinducing activity produced by WEHI-3B cells has been described by others before" in the Dörmer et al. publication (Experimental Hematology, 20:758 (1992)) is a reference to the protein described by Kajigaya et al. (Kajigaya, Y., et al., Experimental Hematology, 17:368-73 (1989)). That the protein in Kajigaya et al. is approximately a 15 kDa protein as shown in Figure 1, page 369. That the protein disclosed United States Patent Application No. 08/973,303 has a molecular weight range between 10 kDa and 60 kDa, with the peak between 40 kDa to 60 kDa.

That most of the experiments in the Dörmer et al. reference were in fact done with 32D cells, a murine myeloid cell line, related to myeloid differentiations system. That the observations specifically related to erythroleukemic cells were the down regulation of *c-myb* in F4N and B8/3 cells by WEHI-3B supernatant associated with globin mRNA synthesis. That neither the finding of *c-myb* down regulation or the induction of globin mRNA by Dörmer et al. synthesis sufficiently demonstrate hemoglobin synthesis.

6) That the publication by Dörmer et al. does not refer to the protein disclosed in the United States Patent Application No. 08/973,303, or describe hemoglobin synthesis in F4N or B8/3 cells.

The undersigned inventor declares further that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true and further that these statements were made with the knowledge that willful false statements and

Appl. No. 08/973,303
Atty. No. 58780.000003

the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Inventor's Signature: Peter J. J. J. J.

Date: 7/4/2002

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